

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NORTH DAKOTA

In Re:

Bankruptcy No. 24-30168

Chapter 11 – Subchapter V

Stark Energy, Inc.,

Debtor.

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**ORDER**

Gate City Bank filed a Motion to Convert Case to Chapter 7, or Alternatively, to Remove Debtor in Possession. Doc. 208. Debtor opposed the motion. Doc. 212.

The Court held a hearing on March 6, 2025. The Court received exhibits and testimony offered during this hearing. It also received the exhibits and testimony considered during the July 24, 2024, hearing on Gate City Bank's Motion to Lift Automatic Stay.

Based on the evidence cited in support of the Court's ruling on July 25, 2024, the Court found and finds today that Debtor filed its bankruptcy petition in bad faith. Debtor's conduct through its owner and manager shows flagrant efforts to avoid complying with court orders and willful and deceitful efforts to evade Gate City Bank's efforts to recover collateral that serves as security for Debtor's debt to the bank. For this reason and for the other reasons stated on the record at the March 6, 2025, hearing, the Court finds cause for dismissal, conversion to a Chapter 7 case or removing Debtor in Possession under section 1112.

Pursuant to section 1112(b), the Court shall convert, dismiss the case or appoint a trustee or examiner unless Debtor identifies unusual circumstances establishing that converting or dismissing the case is not in the best interests of creditors. Debtor did not

argue or offer evidence showing that unusual circumstances exist. Even if it had offered such evidence, it failed to show a reasonable justification for the acts showing bad faith. Further, the “weight of the case law supports the conclusion that ‘bad faith’ cannot be cured or justified such that the exception to dismissal under § 1112(b)(2) applies,” to the Court’s analysis under section 1112. In re LTL Mgmt, LLC, 652 B.R. 433, 454 (D. N.J. 2023).

Having concluded that Gate City Bank established cause under section 1112, the Court must decide whether to dismiss the bankruptcy case, convert the case to a case under Chapter 7 or remove Debtor in Possession. As between dismissal, conversion or removal of Debtor in Possession, the United States Trustee and Debtor advocated for dismissal. Although Gate City Bank did not request dismissal in its motion, it consented to dismissal at the hearing. For the reasons stated on the record, the Court finds dismissal is in the best interest of creditors and the bankruptcy estate.

IT IS ORDERED that Gate City Bank’s Motion to Convert Case to Chapter 7, or Alternatively, to Remove Debtor in Possession [Doc. 208] is granted in part. This bankruptcy case is dismissed.

The Court retains jurisdiction to consider professional fee applications and other matters necessary and appropriate to finalize administration of the bankruptcy estate. All professional fee applications must be filed within 14 days of this order.

Dated: March 6, 2025.

A handwritten signature in black ink, appearing to read "Shon Hastings". The signature is fluid and cursive, with the first name "Shon" and last name "Hastings" clearly distinguishable.

Shon Hastings, Judge  
United States Bankruptcy Court